

IN RE: PETITIONS FOR SPECIAL HEARING & ZONING VARIANCE
NMC Linden Ave. & Highview Road
Holy Nativity Lutheran Church
1265 Linden Avenue
13th Election District
1st Councilmanic District
David P. Dancesia, Trustee and
John G. Russell, Trustee
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-37-SPHA

AMENDED ORDER

WHEREAS, this matter came before the Zoning Commissioner as a Petition for Zoning Variance and A Petition for Special Hearing for the property known as 1265 Linden Avenue; and,

WHEREAS, by Order dated September 2, 1993, the aforementioned Petitions were granted; and,

WHEREAS, the Petitioner has advised this Office that the Findings of Fact and Conclusions of Law issued in this case incorrectly transposed the name of the prior owner of the property (i.e. Holy Nativity Lutheran Church) and the present owner of the property (i.e. Patronage Mother of God Byzantine Catholic Church); and,

WHEREAS this erroneous transposition is not germane to the findings and conclusions previously set forth, but merely to correct a misnomer,

NOW, THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of September, 1993 that the Findings of Fact and Conclusions of Law be and are hereby AMENDED so as to correct the Petitioner and present owner as David P. Dancesia and John G. Russell, Trustees of the Patronage Mother of God Byzantine Church, and identify the prior owner of the subject property as the Holy Nativity Lutheran Church, as those designations appear throughout the aforementioned Order.

IT IS FURTHER ORDERED that except as expressly corrected, the Findings of Fact and Conclusions of Law issued September 2, 1993 are hereby ratified and incorporated herein.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

ORDER RECEIVED FOR FILING
Date 9/21/93
By *Sh. Groat*

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

September 21, 1993

(410) 887-4386

Edward Groh, Esquire
20 Crain Highway
Glen Burnie, Maryland 21061

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
NMC Linden Ave. & Highview Road
(1265 Linden Avenue)
13th Election District - 1st Councilmanic District
David P. Dancesia, Trustee and John G. Russell, Trustee - Petitioners
Case No. 94-37-SPHA

Dear Mr. Groh:

Pursuant to our telephone conversation, enclosed please find a copy of the Amended Order in the above-captioned matter. This Order merely corrects the designation of both the present and former property owners.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. David P. Dancesia, Trustee
562 Moorings Circle, Arnold Md. 21012

Mr. Sam Tracy
1264 Linden Avenue, Baltimore, Md. 21227

People's Counsel; File

IN RE: PETITIONS FOR SPECIAL HEARING & ZONING VARIANCE
NMC Linden Ave. & Highview Road
Holy Nativity Lutheran Church
1265 Linden Avenue
13th Election District
1st Councilmanic District
David P. Dancesia, Trustee and
John G. Russell, Trustee
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-37-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Zoning Variance and Petition for Special Hearing for that property located at 1265 Linden Avenue in the Arbutus section of Baltimore County. The property is more well known as the site of the Holy Nativity Lutheran Church. The Petitions are filed by David P. Dancesia and John G. Russell, Trustees of the Holy Nativity Lutheran Church. Within the Petition for Special Hearing, relief is requested to approve zero on site parking spaces as a nonconforming condition. Within the Petition for Variance, relief is requested from Section 1801.2.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 12 ft. in lieu of the required 35 ft. for a proposed addition. The relief requested is more particularly shown on Petitioners' Exhibit No. 3, the site plan to accompany the Petitions for Special Hearing and Variance. It is to be particularly noted that an amended site plan was submitted at the hearing. As is noted in comments from the Office of Zoning Administration and Development Management (ZADM) during the review of the filing, the plan originally submitted with the Petition was deficient in a number of areas. The amended plan has corrected those deficiencies, including providing additional information and the seal of a professional engineer. The amended plan submitted as Petitioners' Exhibit No. 3 contains sufficient information so as to evaluate the Petitions.

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Date 9/21/93
By *Sh. Groat*

Appearing at the requisite public hearing for this case was David P. Dancesia, Trustee of the Church and Albert K. Broughten, an architect who assisted in the preparation of the site plan and is familiar with the proposed improvements to the property. The Petitioners were represented by Edward Groh, Esquire. Appearing as a Protestant was Sam Tracy, who resides across the street from the church at 1264 Linden Avenue.

Testimony and evidence presented was that the site is actually owned by the Most Reverend Michael J. Dudick, Bishop Eparchy of Passaic, New Jersey. As noted above, the property is presently the home of the Holy Nativity Lutheran Church. The site is .376 acres in size and is zoned D.R.5.5. The property is located at the intersection of Linden Avenue and Highview Road. To the rear of the site is another property owned by the Church. That property, which was not the subject of this hearing, is improved with a 1-1/2 framed 2 story dwelling which serves as the parsonage.

Further testimony and evidence presented was that the Church desires to construct a small addition on the southeast side of the existing building. This addition will be 9 ft. wide by 22 ft. long. The main purpose of the two story addition is to provide a safe and accessible entrance for handicapped and elderly parishioners. The existing building, which is over 40 years old, does not have sufficient access to serve these physically restricted individuals. Therefore, a ramp will be provided in this location to promote better access and to bring the building in compliance with the Americans with Disability Act standards. Moreover, additional kitchen space, a candle room and small storage area will be provided.

Testimony was also provided that due to the site constraints and layout of the building, the addition must be constructed where proposed. That is, the flow of the building would not allow for construction elsewhere and the lot is of a narrow dimension which would not allow for an addition to

the front or rear of the building. Thus, these site constraints are offered in support of the proposed Petition for Variance.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the

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Date 9/21/93
By *Sh. Groat*

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public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

As to the Petition for Special Hearing, same is triggered as a result of the filing for the variance. Uncontradicted testimony and evidence presented was that construction of the Church building began in 1949 and was completed in 1950. Specifically, affidavits and records were submitted which attested to those dates. Originally, the Church was a Catholic Byzantine Church, however, was acquired by the Lutheran Church in 1973 and has been used by that denomination since that time.

A nonconforming use is defined by Section 101 of the B.C.Z.R. as "A legal use which does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use." (emphasis added). In the instant case, the Petitioners contend that the present parking regulations are not applicable to this use because same pre-existed the adoption of those regulations. Indeed, the first comprehensive set of zoning regulations came to Baltimore County in 1955. These regulations replaced a rudimentary set of regulations which had been originally enacted in 1945. Moreover, the 1955 regulations provided certain requirements as to the required parking area and number of spaces necessary for a given use. In the instant case, I am persuaded that the Petition for Special Hearing should be granted. The testimony and evidence presented was uncontradicted that the site has been used as a church since the completion of the building in 1950. Moreover, it is clear that the construction of the proposed small addition will not increase the capacity of the Church and the size of its congregation. The addition is constructed only to improve an existing situation and to make the Church more readily accessible to certain parishioners. Further, clearly, the use of the Church has continued without interruption, expansion or change since

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Date 9/21/93
By *Sh. Groat*

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1950. The Church use has been continuous throughout the past 43 years and has remained unchanged in scope and character. Thus, I am persuaded that the Petitioners have satisfied the test to establish a nonconforming use as set forth in Section 104 of the regulations. Therefore, the Petition for Special Hearing should be granted.

Notwithstanding my approval of the Petition for Special Hearing and Petition for Variance, a brief comment is in order about the concerns stated by Mr. Tracy. He owns neighboring property near the Church and complains of certain parking congestion. Interestingly, the parking problem does not occur on Sundays when one might reasonably expect in view of the Church's services on that day. However, Mr. Tracy indicated that the Church building is frequently used for special meetings by Alcoholics Anonymous and similar groups during the mid-week. It is during these times that the parking congestion occurs. The Trustee from the Church, who appeared at the hearing, promised to cooperate and advise their parishioners and lessees to obey all parking standards. In fact, it appears that the parking congestion is, in part, due to the absence of enforcement by the Baltimore County Police Department. Mr. Tracy specifically testified that on many occasions, parking regulations were not enforced. Thus, this does not appear to be entirely a zoning issue but one of police enforcement of existing parking laws. Although I believe it inappropriate to add any restriction relating to the use of the Church in this manner, this comment is offered in the hope that the Church will continue in its efforts to be a good neighbor and prevent parking congestion in the area.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

ORDER RECEIVED FOR FILING
Date 9/21/93
By *Sh. Groat*

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THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 2nd day of September, 1993 that, pursuant to the Petition for Special Hearing, approval for zero on site parking spaces as a nonconforming condition, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a Petition for Variance from Section 1801.2.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 12 ft., in lieu of the required 35 ft., for a proposed addition, be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein.

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

September 2, 1993

Edward Groh, Esquire
20 Crain Highway
Glen Burnie, Maryland 21061

RE: Case No. 94-37-SPHA
Petitions for Special Hearing and Variance
David P. Dancesia, et al, Trustees
Property: 1265 Linden Avenue

Dear Mr. Groh:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

encl.

cc: Mr. David P. Dancesia, Trustee, 562 Moorings Circle, Arnold, Md. 21012
cc: Mr. Sam Tracy, 1264 Linden Avenue, Baltimore, Md. 21227



Petition for Special Hearing to the Zoning Commissioner of Baltimore County for the property located at 1265 Linden Avenue, Arbutus 21227 which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 800.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve to provide for zero (0) parking; to approve zero parking spaces as a non-conforming condition.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor
(Type or Print Name)
Signature
Address
City State Zipcode

Attorney for Petitioner
(Type or Print Name)
Signature
Address
City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)
Legal Owner(s)
DAVID P. DANCESIA, TRUSTEE
JOHN G. RUSSELL, TRUSTEE
1265 Linden Avenue, Arbutus, MD 21227
Phone No.
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name
Address
City State Zipcode
ESTIMATED LENGTH OF HEARING: 1 HR
Reviewed By: [Signature] DATE: 9/2/93



Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 1265 Linden Avenue, Arbutus 21227 which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) of the Zoning Regulations of Baltimore County.

Sec. 1801.2.C.1. To permit a sideyard setback of 12 feet in lieu of the required 35 feet of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (indicate hardship or practical difficulty).

The construction of a handicapped access to building with a ramp, lobby, and elevator requires an addition adjacent to street to match the internal circulation of the existing church.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor
(Type or Print Name)
Signature
Address
City State Zipcode

Attorney for Petitioner
(Type or Print Name)
Signature
Address
City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)
Legal Owner(s)
DAVID P. DANCESIA, TRUSTEE
JOHN G. RUSSELL, TRUSTEE
1265 Stevens Avenue, Arbutus, MD 21227
Phone No.
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name
Address
City State Zipcode
ESTIMATED LENGTH OF HEARING: 1 HR
Reviewed By: [Signature] DATE: 9/2/93

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 13th Date of Posting: 9/4/93
Posted for: Special Hearing & Variance
Petitioner: David Dancesia & John Russell, Trustees
Location of property: 1265 Linden Ave. Arbutus, Md. 21227
Location of Sign: Facing road, on property line south
Remarks: [Signature]
Posted by: [Signature] Date of return: 9/13/93
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9/5, 1993
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/5, 1993.

THE JEFFERSONIAN,

A. Henricson
LEGAL AD. - TOWSON

ALBERT K. BROUGHTON JR.
& ASSOCIATES
ARCHITECTURE & ENGINEERING
401 CHESAPEAKE AVENUE
TOWSON, MD 21204
PH 410-281-1100

June 18, 1993

Patronage Mother of God
Byzantine Catholic Church

Meets and Bounds Description

Beginning at the northwest corner of Linden Avenue and Highview Road in a southwest direction of S 47 - 31' West, 124.3 feet, thence running S 52 - 37' West, 107.35 feet, thence N 44 - 40' West, 67.26 feet, thence E 34 - 32' West, 107.4 feet, thence S 44 - 08' East, 18.62 feet, thence N 47 - 31' East, 127 feet, thence S 42 - 29' East, 66 feet to the point of beginning at northwest corner of Linden Avenue and Highview Road. This information recorded in the deed records of Baltimore County, Maryland as shown on Plat Records of "Arbutus Terraces", in Plat Book W.P.C. 7/17.

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6180

Number: 35

BY JLL

1 NON RES FILING-FEE FOR VAR 020 \$250.00
1" " FOR SPH 040 \$250.00
2 SIGN POSTING-FEES 080 70.00
TOTAL 570.00

OWNER: DANCESIA + RUSSELL TRUSTEES.

LOC. 1265 LINDEN AVE

01A0180245WICHRC 6570.00

Please Make Checks Payable To: Baltimore County

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on:

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-37-SPHA (Item 35)
1265 Linden Avenue
1265 Linden Avenue and Highview Road
13th Election District - 1st Councilmanic District
Petitioner(s): David P. Dancesia, Trustee & John G. Russell, Trustee
HEARING: THURSDAY, AUGUST 24, 1993 at 10 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve zero parking spaces as a non-conforming condition.
Variance to permit a side yard setback of 12 feet in lieu of the required 35 feet.

Arnold Jablon
Director

cc: David P. Dancesia and John G. Russell, Trustees
Edward D. Groh, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THIS FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

TO: PUBLISHER PUBLISHING COMPANY
August 5, 1993 Issue - Jeffersonian

Please forward billing to:

Edward D. Groh, Esq.
P.O. Box 728
Glen Burnie, Maryland 21061
410-768-3446

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-37-SPHA (Item 35)
1265 Linden Avenue
NWC Linden Avenue and Highview Road
13th Election District - 1st Councilmanic District
Petitioner(s): David P. Dancesia, Trustee & John G. Russell, Trustee
HEARING: TUESDAY, AUGUST 24, 1993 at 10 a.m. in Rm. 118, Old Courthouse.

Special hearing to approve zero parking spaces as a non-conforming condition.
Variance to permit a side yard setback of 12 feet in lieu of the required 35 feet.

Laurence E. Schmidt
Laurence E. Schmidt
Zoning Commissioner for Baltimore County

LAURENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 16, 1993

Edward D. Groh, Esquire
20 Crain Highway North
Glen Burnie, Maryland 21061

RE: Case No. 94-37-SPHA, Item No. 35
Petitioner: David P. Dancesia, et al
Petition for Variance

Dear Mr. Groh:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on July 22, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 6, 1993
Zoning Administration and Development Management

FROM: Robert W. Bowling, Senior Engineer
Development Plan Review Section

RE: Zoning Advisory Committee Meeting
For August 9, 1993
Item No. 35

The Development Plan Review Section has reviewed the subject zoning item. This building addition is subject to the Landscape Manual.

DWB:s



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 45 (TCL)

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-482-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 9, 1993
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 30, 35, 36 and 38.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey M. Long*

Division Chief: *Pat Keller*

PK/JL:lw

ZAC.30/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Zoning Advisory Committee

DATE: August 3, 1993

FROM: Captain Jerry Pfeifer

SUBJECT: August 9, 1993 Meeting

- | | |
|-----|---|
| #29 | No Comments |
| #30 | No Comments |
| #31 | No Comments |
| #32 | No Comments |
| #33 | No Comments |
| #34 | No Comments |
| #35 | Building shall comply with the 1991 Life Safety Code. |
| #36 | Surface for Fire Department access shall be paved and capable of handling 50,000 lbs. on 2 axles. |
| #37 | No Comments |
| #38 | No Comments |
| #39 | No Comments |

JP/dmc

RECEIVED
AUG 5 1993
ZADM

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
AND VARIANCE : OF BALTIMORE COUNTY
NWC Linden Ave. & Highview Rd. : (1265 Linden Ave.)
13th Election District : Case # 94-37-SPHA
1st Councilmanic District :
DAVID P. DANCESIA, TRUSTEE AND :
JOHN G. RUSSELL, TRUSTEE :
Petitioners : : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Desilio
Carole S. Desilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 18th day of August, 1993,
a copy of the foregoing Entry of Appearance was mailed to Edward D. Groh,
Esquire, 20 Crain Highway North, Glen Burnie, MD 21061, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
AUG 19 1993
ZADM

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 35

Petitioner: DAVID P. DANCESIA & JOHN G. RUSSELL

Location: 1265 LINDEN AVE & HIGHVIEW RD

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Edward D. Groh

ADDRESS: P.O. BOX 728

Glen Burnie, MD 21061

PHONE NUMBER: 410 768 3446

AJ:ggs

(Revised 04/09/93)

7447 93
9/2/93
8
10 p.c.
EDWARD D. GROH
ATTORNEY AT LAW
20 CHAIN HIGHWAY, N. (P.O. BOX 728)
GLEN BURNIE, MARYLAND 21061
(301) 768-3446
August 27, 1993

Lawrence Schmidt, Commissioner
Baltimore County Zoning Commission
111 West Chesapeake Avenue
Towson, MD 21204

Re: Petition of Patronage Byzantine Catholic Church
Case No.: 94-37-SPHA (Item 35)

Dear Commissioner Schmidt:

Enclosed please find a copy of the Power of Attorney granting
authority to Messrs. Dancesia and Russell to act on behalf of
Bishop Michael Dudick in the matter of the above-referenced case.
Thank you for your patience.

Sincerely,

Edward D. Groh

EDG:ebc

BALTIMORE PARISH RECEIVED THANKS

BALTIMORE, MD -- The Patronage of the Mother of God
Parish in Baltimore recently received a certificate of thanks
from the Baltimore County Public School Department for its
work in making the Church available during school hours as a
training facility for students with special needs.
Fr. Conan Howard Timoney was honored by the Baltimore
Archdiocese Segre Club as its guest speaker at a luncheon held
at the Baltimore Country Club on August 27, 1993.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Edward Groh	20 Chain Hwy 21061
Albert K. Broughton, Jr.	1017 Chestnut Ridge Dr. Lutherville, MD 21093
David P. Dancesia	582 Moorings Cr. Annapolis, MD 21012

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Sam Tracy	1264 Linden Ave. Balt. Md 21207

08:18:33 08:13:44 AM - THE FEDDER COMPANY FOR
LIBER 5333
THE TITLE GUARANTEE COMPANY
(Corporation Form)
Let App: H-7786
Walter A. Richmond
Notary Public
For: [Signature]
Date: Dec 13, 1993

This Deed, Made this 30th day of JANUARY, in the year one
thousand nine hundred and seventy-three, by and between
HOLY NATIVITY LUTHERAN CHURCH, formerly known as Lutheran Church of Holy Nativity of
Baltimore County,
a body corporate of the State of Maryland, party of the first part, Grantor, and
THE MOST REVEREND MICHAEL J. DUDICK, Bishop Eparchy of Passaic, New Jersey, party of the
second part, Grantee.

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the
receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey and assign unto the
party of the second part, his successors and assigns, in fee simple

all those lot(s) of ground
situate in the Thirteenth Election District or Baltimore County,
in the State of Maryland, and described as follows, that is to say:

BEING known and designated as Lots Nos. 189, 190 and 191 as recorded in the
Plat of Arbutus Terrace among the Plat Records of Baltimore County in Liber W.P.C. No.
7, folio 17. The improvements thereon being known as No. 1265 Linden Avenue.

BEING the same lots of ground described in a Lease dated July 11, 1929 and re-
corded among the Land Records of Baltimore County in Liber L&L&M No. 829, folio 134, from
Louis Roedel and Catherine Roedel, his wife to Lutheran Church of the Holy Nativity of
Baltimore County, Maryland.

BEING ALSO the same lots of ground described in a Deed dated December 19, 1929
and recorded among the Land Records of Baltimore County in Liber L&L&M No. 841, folio 201
from Louis Roedel and Catherine Roedel, his wife to Lutheran Church of the Holy Nativity
of Baltimore County, Maryland.

BEING known and designated as Lots Nos. 192, 193 and 194, as recorded on the
Plat of Arbutus Terrace among the Plat Records of Baltimore County in Liber W.P.C. No.
7, folio 17. The improvements thereon being known as No. 1266 Stevens Avenue.

BEING the same lots of ground described in a Deed dated July 9, 1948 and re-
corded among the Land Records of Baltimore County in Liber T.B.S. No. 1677, folio 412
from Wichter D. Prior, widower, to Lutheran Church of the Holy Nativity of Baltimore
County, Maryland.

Det No 1A

POWER OF ATTORNEY

Know all men by these presents that the undersigned, Michael
J. Dudick, Bishop Eparchy of Passaic, New Jersey, does hereby make,
constitute and appoint David Dancesia and John Russell, as the true
and lawful attorneys in fact for the undersigned and in his name,
place and stead, and on his behalf, and for his use and benefit:
1. To exercise or perform any act, power, duty, right or
obligation whatsoever that I may now have, or hereafter acquire the
legal right, power or capacity to exercise or perform, in
connection with, arising from, or relating to the purchase,
conveyancing, pledging, mortgaging, leasing, renting or disposing
of in any manner the real property which is known as 1265 Linden
Avenue and 1266 Stevens Avenue, Arbutus, Maryland. This power shall
be particularly applicable to any and all matters which may come
before the Baltimore County Zoning Commission.
2. The undersigned grants to said attorneys in fact full power
and authority to do, take, and perform all and every act and thing
whatsoever requisite, proper, or necessary to be done, in the
exercise of any of the rights and powers herein granted, as fully
to all intents and purposes as I might or could do if personally
present, with full power of substitution or revocation, hereby
ratifying and confirming all that said attorneys in fact shall
lawfully do or cause to be done by virtue of this power of attorney
and the rights and powers herein granted.
3. The undersigned is over 18 years of age, and competent to
act herein. Notwithstanding anything herein contained to the
contrary, this Power of Attorney shall not be affected or impaired
by my disability, it being my express intention that the Power of
Attorney shall survive my disability. However, this power shall
terminate upon the completion of such matters as may come before
the Baltimore County Zoning Commission.

EXECUTED this ____ day of ____, 1993.

WITNESS:

Michael J. Dudick, Bishop

STATE OF _____ COUNTY _____

I HEREBY CERTIFY that on this ____ day of ____, 1993
before me a Notary Public of the State of New Jersey, ____
County appeared Bishop Michael Dudick, and acknowledged
this limited power of attorney to be his act and deed.

Notary Public

My Commission Expires: _____

Det 1B

original to
follow
KTS

EPARCHY OF PASSAIC

State of New Jersey

We, the undersigned, Eparch, Chancellor of the Eparchy (Diocese)
of Passaic and Pastor respectively, Trustees of
PATRONAGE OF THE MOTHER OF GOD BYZANTINE CATHOLIC CHURCH
(Legal title of the church)

a religious corporation located in
BALTIMORE, MARYLAND 21227 and duly organized
(City) (State)

under the statute laws of said State, regulating the organization
of corporations of the Ruthenian Catholic Church, hereby certify
that we have by these presents elected

DAVID DANCESIA and JOHN RUSSELL
(name) (name)

Trustees with us of the above religious congregation corporation, as
lay trustees of the said corporation for the term of one year from
this date, and until their respective successors are elected, pursuant
to the provisions of the laws of said State governing the organization
of religious congregation corporations of the Ruthenian Catholic
Church.

Dated at Passaic this 26th day of FEBRUARY 1993

[Signature] Eparch of Passaic

[Signature] Chancellor

Conan H. Timoney Pastor

EP
St

EPARCHY OF PASSAIC

State of New Jersey

We, the undersigned, Eparch, Chancellor of the Eparchy (Diocese)
of Passaic and Pastor respectively, Trustees of
The Patronage of the Mother of God Byzantine Catholic Church
(Legal title of the church)

a religious corporation located in
BALTIMORE (Arbutus) Maryland 21227 and duly organized
(City) (State)

under the statute laws of said State, regulating the organization
of corporations of the Ruthenian Catholic Church, hereby certify
that we have by these presents elected

John Russell and David Dancesia
(name) (name)

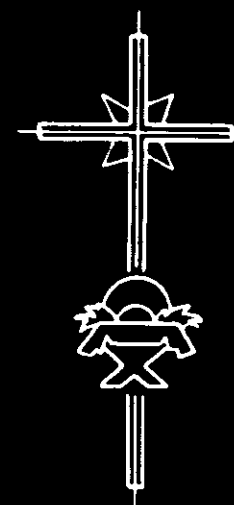
Trustees with us of the above religious congregation corporation, as
lay trustees of the said corporation for the term of one year from
this date, and until their respective successors are elected, pursuant
to the provisions of the laws of said State governing the organization
of religious congregation corporations of the Ruthenian Catholic
Church.

Dated at Passaic this 26th day of January, 1992

[Signature] Eparch of Passaic

[Signature] Chancellor

[Signature] Pastor



HOLY NATIVITY LUTHERAN CHURCH

1200 Linden Avenue • Baltimore, Maryland 21227-2478

Arthur W. Scherzer, Pastor
Study (410) 242-9400

Church Office (410) 242-9441
School Office (410) 247-5972

August 4, 1993

Mr. Edward Groh
20 Crain Highway
Glen Burnie, MD 21061

Re: PATRONAGE OF THE MOTHER OF GOD BYZANTINE CATHOLIC CHURCH petition with Baltimore County

Father Conan Howard Timoney has requested the following information relative to their church property located at Linden and Highview Avenues, Arbutus, Maryland 21227.

The existing physical plant was built August, 1949, and officially dedicated February 12, 1950.

Contract of Sale signing transferring the property from Holy Nativity Lutheran Church to the Byzantine Catholic Diocese was executed on January 30, 1973. At this time an Agreement of Understanding for the continued use of this facility by Holy Nativity was also executed. On February 25, 1973, Holy Nativity conducted their final worship service and moved to their new as well as present location. During the time period of June 17, 1972, through February 25, 1973, both congregations held services regularly at this location by mutual agreement.

The parcel of land on which the church building is located is the only land that is and was ever part of the real property. There were no parking facilities available to the church other than on street parking.

If you have any need for additional information or clarification of what has been provided herein, please call John Watts (Home: 744-0856, Work: 393-5500).

John Watts
Advisory Committee

cc: Father Conan Timoney

BEFORE THE BALTIMORE COUNTY ZONING COMMISSION

In Re: Patronage of the Mother of God
Byzantine Catholic Church

Case No.: 94-37-SPHA
(Item 35)

AFFIDAVIT

I, the undersigned, hereby swear and affirm that the foregoing is true and correct:

1. I am over 18 years old.
2. That I am competent to be a witness.
3. That I am member of the congregation of the Holy Nativity Lutheran Church and serve on its advisory committee.
4. That it is my personal knowledge, having been a member of the Holy Nativity Lutheran Church since the time of the construction and dedication of the church building, that the structure known as the Patronage of the Mother of God Byzantine Catholic Church and located at 1265 Linden Avenue, NWC Linden and Highview Avenues, 13th Election District, 1st Councilmatic District, Arbutus Maryland was constructed in 1949 and dedicated February 12, 1950. At that time it was known as the Holy Nativity Lutheran Church and services were conducted there continuously until February 25, 1973. A Deed conveying the property to the

AL. BROUGHTON 252-6107 TEL NO.

Jan 02.72 14:02 P.01

ALBERT M. BROUGHTON AIA
ARCHITECTURAL & ENGINEERING
1000 NORTON STREET
BALTIMORE, MARYLAND 21201
TEL. 252-6107

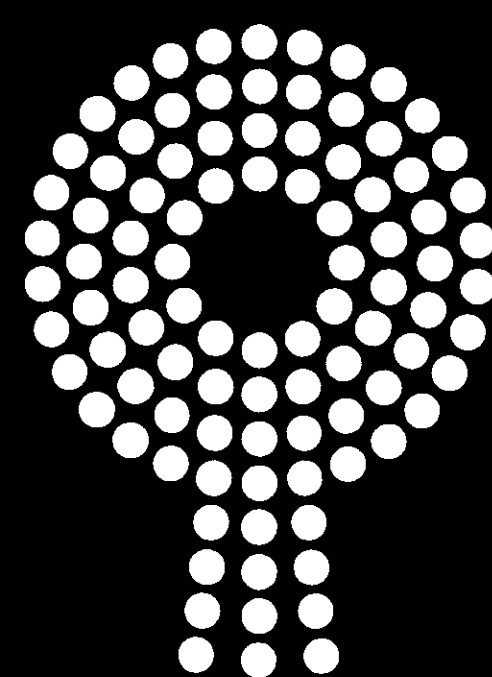
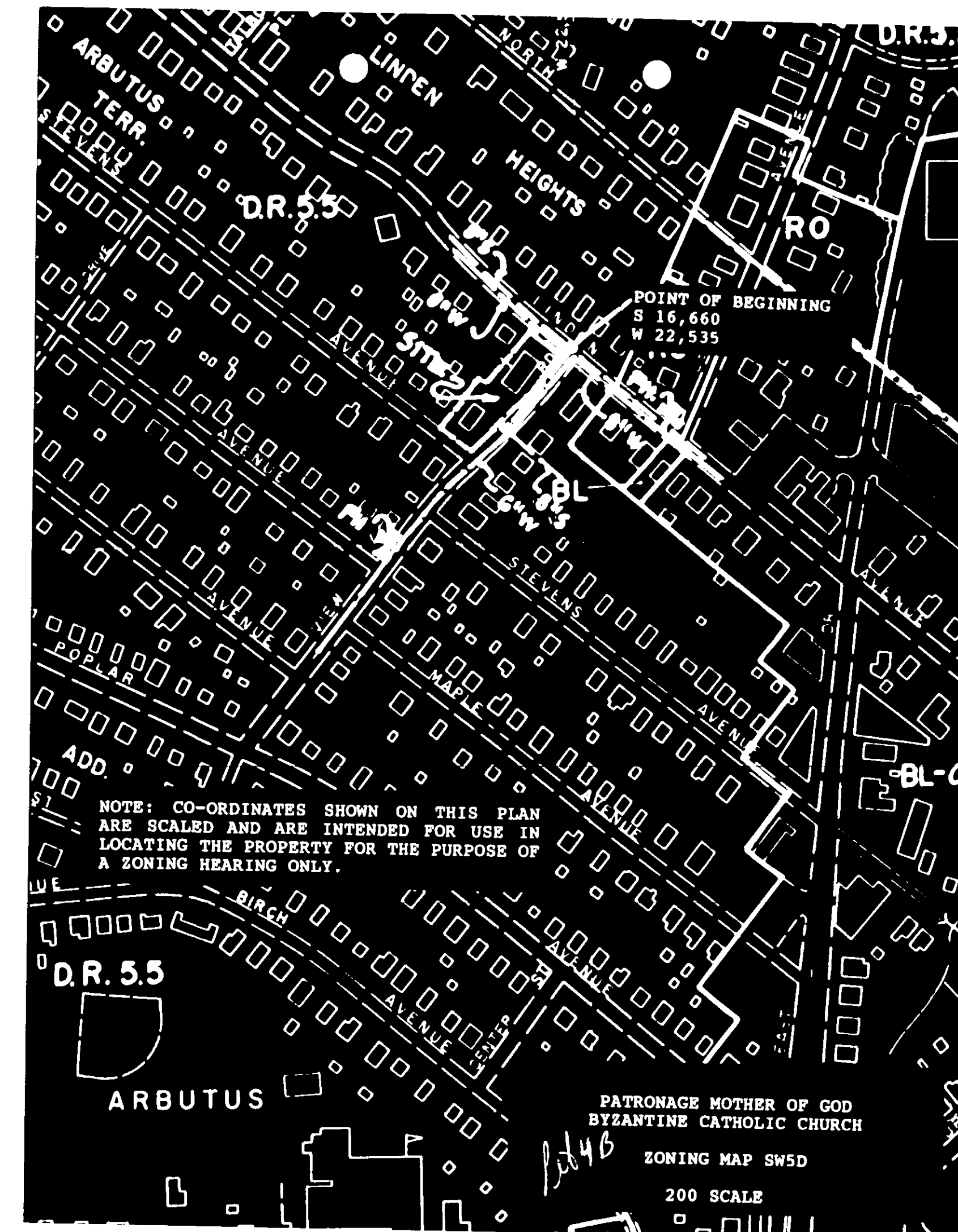
June 10, 1993

Patronage Mother of God
Byzantine Catholic Church

Metre and Bounds Description

Beginning at the northwest corner of Linden Avenue and Highview Road in a southwest direction of 84° - 31' East, 124.3 feet, thence running S 32° - 39' West, 107.35 feet, thence W 44° - 40' West, 67.16 feet, thence S 34° - 32' West, 107.4 feet, thence S 44° - 08' East, 18.62 feet, thence W 47° - 31' East, 127 feet, thence S 42° - 29' East, 66 feet to the point of beginning at northwest corner of Linden Avenue and Highview Road. This information recorded in the deed records of Baltimore County, Maryland as shown on Plat Records of "Arbutus Terraces", in Plat Book W.P.C. 7/17.

NOTE - THIS DESCRIPTION IS INTENDED FOR THE PURPOSES OF A ZONING HEARING ONLY AND IS NOT INTENDED FOR USE IN ESTABLISHING PROPERTY LINES.



**A continuing commitment,
that's what this symbol
stands for.**

The symbol of Aid Association for Lutherans may look like a mere group of dots to you. But to us, it represents something very important: a continuing commitment to our basic purpose. That purpose is "to enable Lutherans and their families to aid themselves and others."

We do this in a variety of ways. Every year, AAL benevolence programs help literally thousands of people

on national, regional and local levels. AAL insurance products also are expressions of our commitment. We help Lutherans and their families plan for their financial futures through life, health and retirement insurance. So when you see this symbol, look beyond a mere configuration of dots. Think of a continuing commitment. first made in 1902. Think of AAL.

JEROME E. MACDONALD, FIC
GENERAL AGENT
3525 ELLICOTT MILLS DRIVE SUITE 1
ELLICOTT CITY, MD 21043
301-465-3112

PAMELA A. BROWN
DISTRICT REPRESENTATIVE
301-525-2627

Aid Association for Lutherans Appleton, Wisconsin
Fraternal Insurance

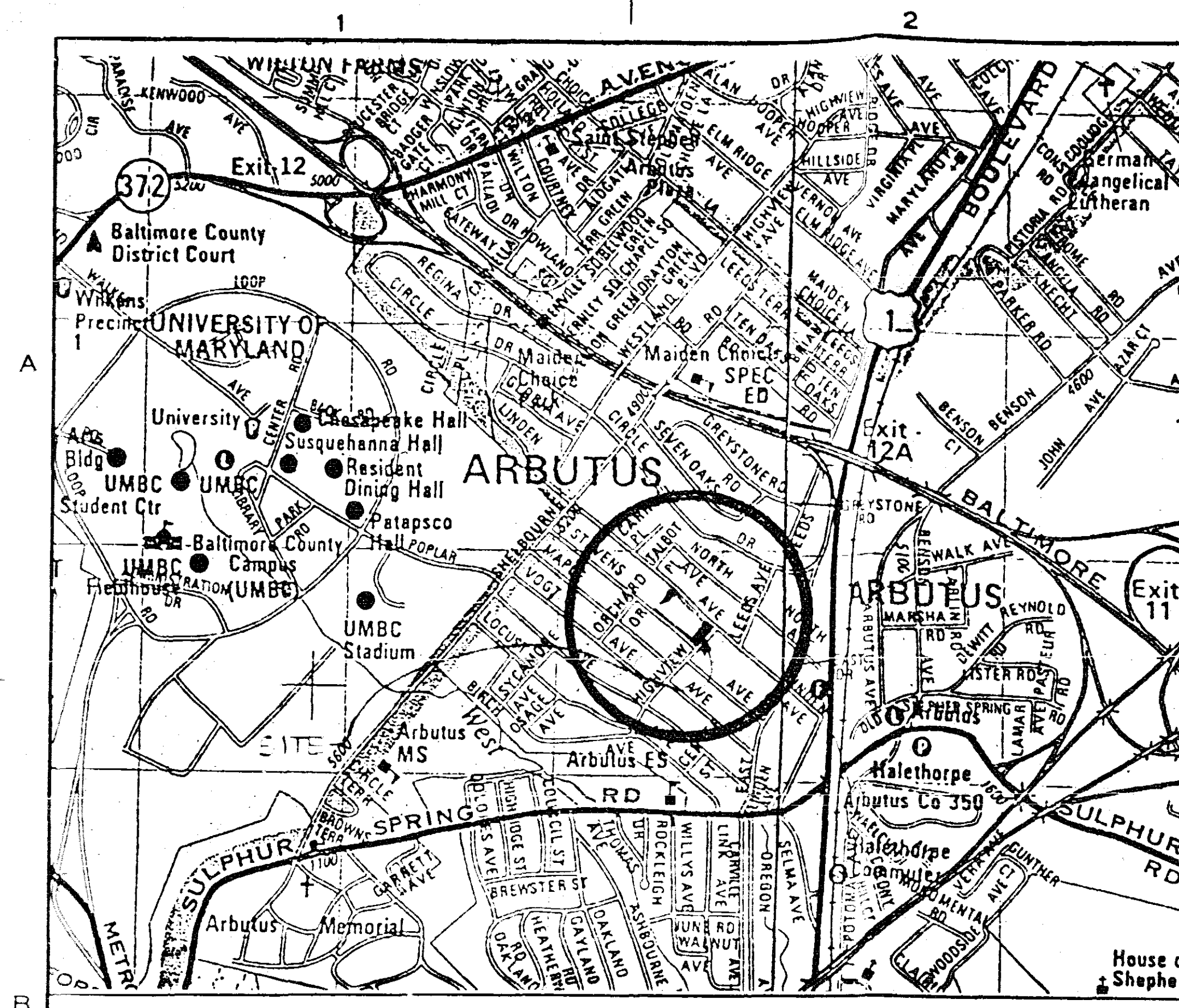
60
1927-1987

YEARS
OF

GRACE AND GROWTH



**HOLY NATIVITY
LUTHERAN CHURCH**



VICINITY MAP

1" = 1000'

BUILDING DATA

NOTES:

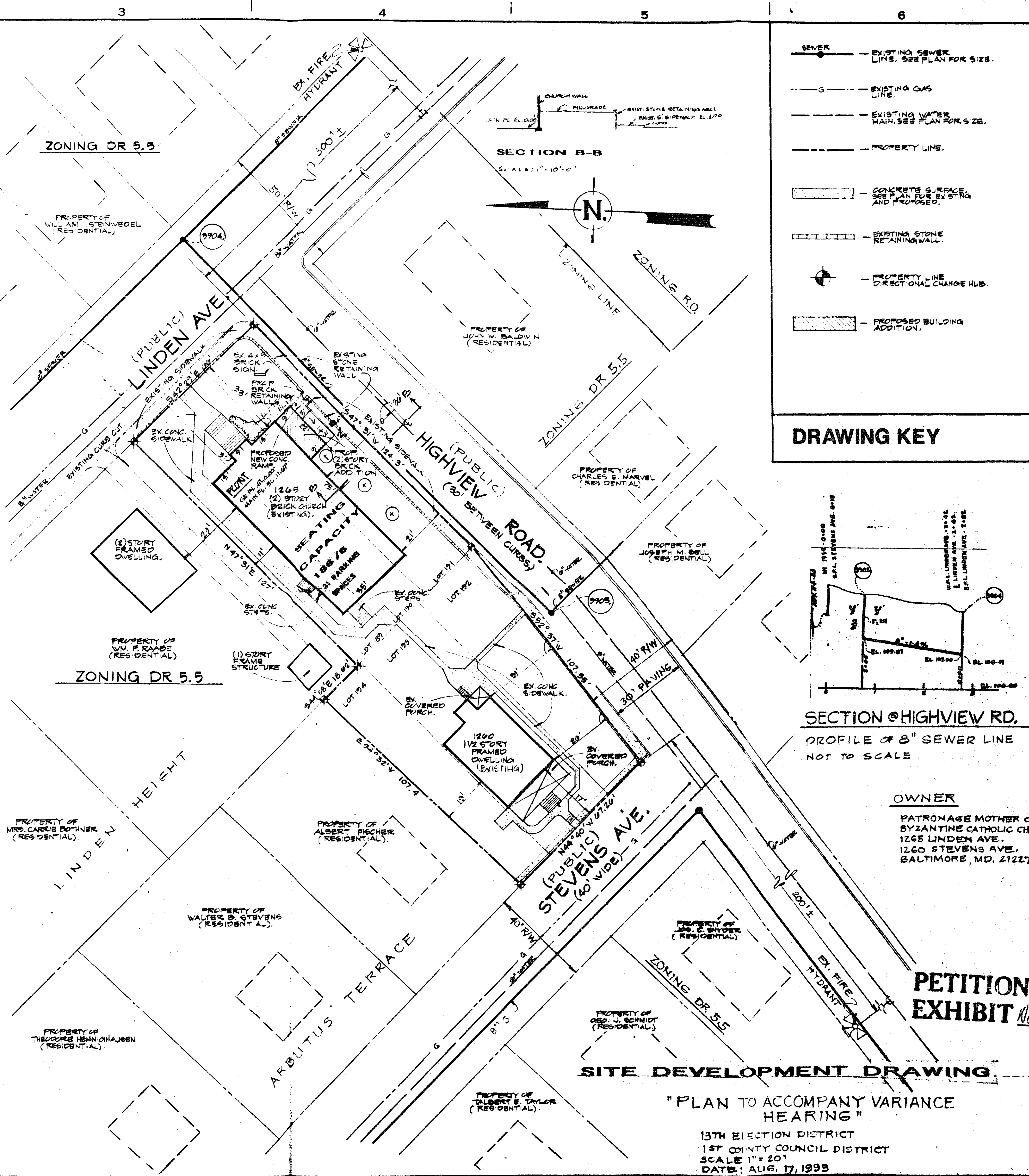
1. ALL PROPERTY BOUNDARIES, DISTANCES, AND BEARINGS SHOWN HEREIN HAVE BEEN DERIVED FROM A LOCATION SURVEY - 1265 LINDEN AVENUE, 1260 STEVENS AVENUE - BALT. MD. DATED 7/19/72 AS PREPARED BY VAN REUTH AND WEINER, INC. CIVIL ENGINEERS AND SURVEYORS.
2. ALSO DESIGNATED AS LOTS 189, 190, 191, 192, 193, & 194 AS SHOWN ON PLAT OF ARBUTUS TERRACES, RECORDED IN BALTIMORE COUNTY IN PLAT BOOK W.P.C. 7/17.
3. WE HEREIN PROVIDE INFORMATION BASED ON THE SURVEY AS STATED ABOVE (SEE ITEM 1) FOR THE PURPOSE OF LOCATING THE IMPROVEMENTS THEREON AND THAT THEY ARE LOCATED AS SHOWN. THIS PLAT IS NOT INTENDED FOR USE IN ESTABLISHING PROPERTY LINES.

4. SITE & BUILDING DATA:

- 4.1 SITE SQUARE FOOTAGE 10,984.32 FT²
ACRES 370 ACRES
- 4.2 EXISTING CHURCH FOOTPRINT 2,652 FT²
PROP. ADDITION FOOTPRINT 198.0 FT²
EXISTING HOUSE FOOTPRINT 1807 FT²
TOTAL BUILT IMP. FOOTPRINT AREA 4,137 FT²
- 4.3 FLOOR AREA RATIO 4,157 FT²/16,393.32 FT² = 0.25 OR 25%
- 4.4 NO OFF STREET PARKING PROVISIONS WERE EVER REQUIRED FOR THE CHURCH (UNST. 1949) INASMUCH AS THE PROPOSED MODIFICATIONS ARE NOT INTENDED TO ADD TO THE ASSEMBLY NUMBER, "NO CHANGE" SHOULD BE BE CONSIDERED FOR THIS ISSUE.
- 4.5 APPROX. 60 FT² OF EXISTING SIDEWALK IS ANTICIPATED FOR DEMOLITION AND REBUILDING. ALL APPLICABLE GOVERNMENTAL SPECIFICATIONS REGARDING PUBLIC USE IMPROVEMENTS (I.E. SIDEWALKS, PAVING, ETC.) SHALL BE ADHERED TO.
- 4.6 NO ADDITIONAL CURB CUTS OR STREET ACCESS ARE REQUESTED AS OF THIS SUBMISSION.
- 4.7 APPROX. MEAN BUILDING TO ROOF 27 FT
TO COME 40 FT.

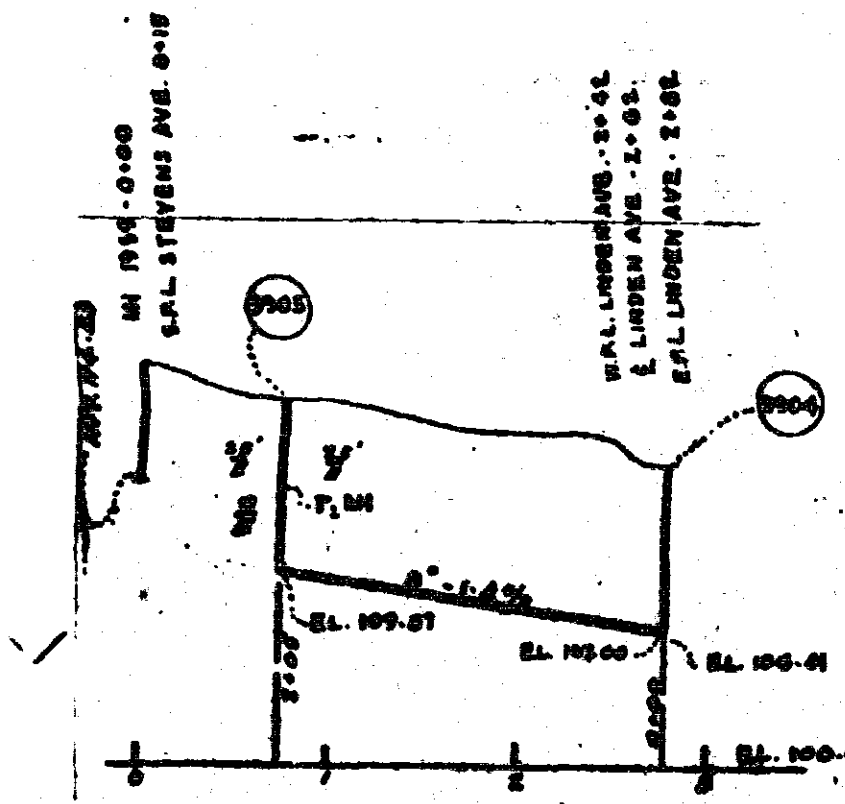
5. ZONING MAP NO. SW - 5-D

6. ALL SIGNS TO CONFORM TO SEC. 413 OF THE 1987 BAL. CO. ZONING REGULATIONS
7. PREVIOUS COMMERCIAL PERMITS - APPROX. DATE OF THE IMPROVEMENTS - 1949
8. ALL PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS OF THE BALTIMORE COUNTY LANDSCAPE MANUAL.



- DRAWING KEY**
- SEWER — EXISTING SEWER LINE. SEE PLAN FOR SIZE.
 - G — EXISTING GAS LINE.
 - EXISTING WATER MAIN. SEE PLAN FOR SIZE.
 - PROPERTY LINE.
 - CONCRETE SURFACE. SEE PLAN FOR EXISTING AND PROPOSED.
 - EXISTING STONE RETAINING WALL.
 - PROPERTY LINE DIRECTIONAL CHANGE HUB.
 - PROPOSED BUILDING ADDITION.

DRAWING KEY



SECTION C-HIGHVIEW RD.
PROFILE OF 8" SEWER LINE
NOT TO SCALE

OWNER

PATRONAGE MOTHER OF GOD
BYZANTINE CATHOLIC CHURCH
1265 LINDEN AVE.
1260 STEVENS AVE.
BALTIMORE, MD. 21227

PETITIONER'S
EXHIBIT #103

SITE DEVELOPMENT DRAWING

"PLAN TO ACCOMPANY VARIANCE
HEARING"

13TH ELECTION DISTRICT
1ST COUNTY COUNCIL DISTRICT
SCALE: 1" = 20'
DATE: AUG. 17, 1993

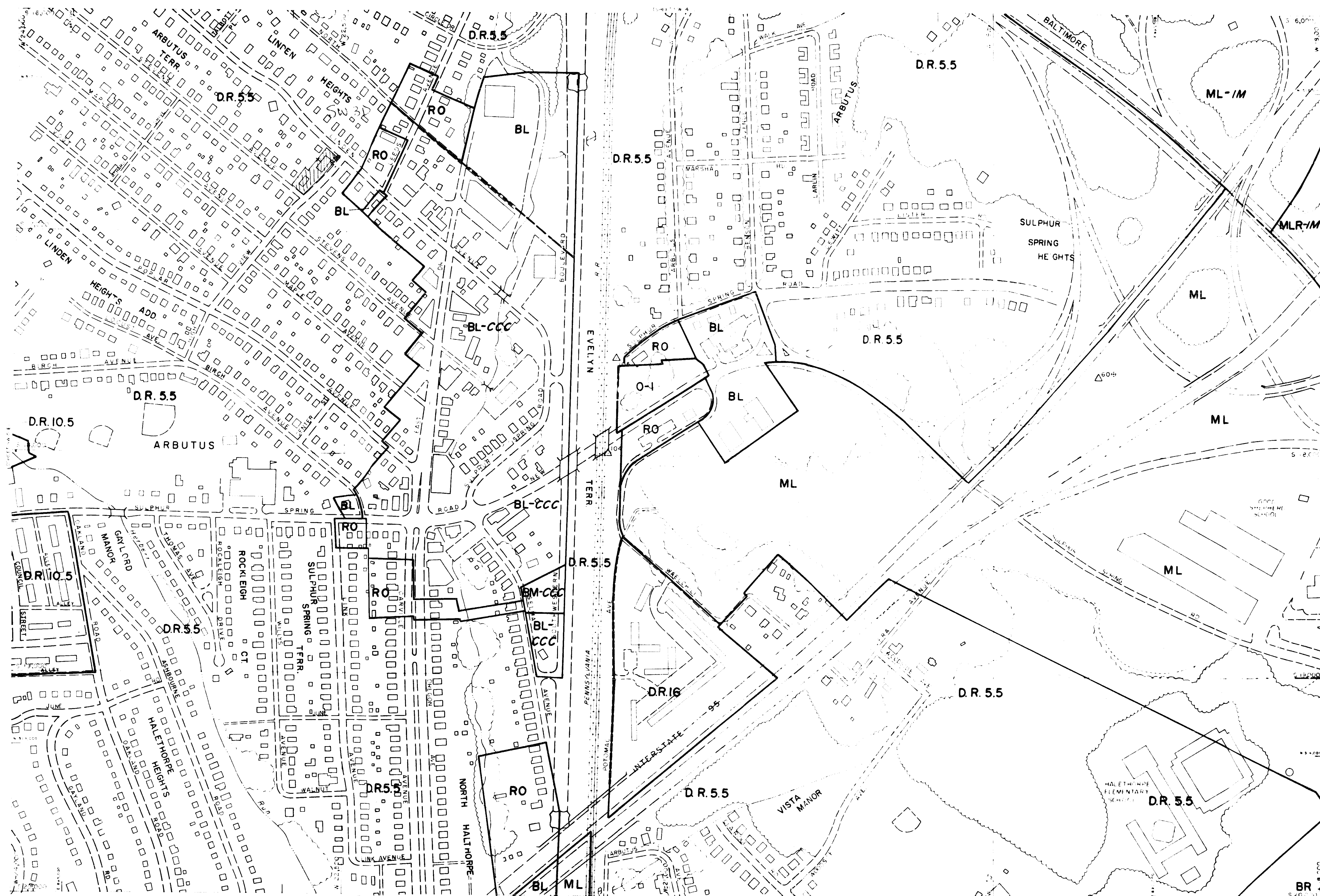


A.K. BROUGHTON A.I.A., C.S.I.
PATRONAGE MOTHER OF GOD
BYZANTINE CATHOLIC CHURCH
AND ASSOC.'S

Revisions:
Released For:
☐ Preliminary Only
☐ Bidding
☐ Permits
☐ Construction

Date:
Project No.:
Drawn:
Designed:
Checked:

SD-1



94-37-SRHA

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

Ord. Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

William L. Howard IV
Chairman, County Council

SCALE
1" = 200' ±
DATE OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
HALETHORPE

BR
SHEET
S.W.
5-D